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SUBJECT: ADVANCING IPR ENFORCEMENT IN SOUTH AFRICA THROUGH  
USPTO WORKSHOP AND IPACT SEMINAR FOR PROSECUTORS

REF: (A) PRETORIA 3158, (B) PRETORIA 1437, (C) STATE 160178

1. Summary. The Intellectual Property Action Group (IPACT), which includes representatives of U.S. companies, organized two useful workshops on the enforcement of intellectual property rights in South Africa in August and September. The U.S. Patent and Trademark Office funded the first workshop that featured the participation of over 60 officials from the South African government and private sector. The second event was a seminar for South African prosecutors that focused on the Counterfeit Goods Act, copyright, trademarks, and criminal cases. Both events advanced U.S. economic interests in enforcing intellectual property rights. End summary.

2. Less than a year ago, the Intellectual Property Action Group (IPACT) of South Africa formed a training subcommittee to help advance the enforcement of intellectual property rights (IPR) in South Africa. The members of the subcommittee include the Recording Industry of South Africa (RISA), the South African Federation Against Copyright Theft (SAFACT), Microsoft, Embassy economic officer, and lawyers from major SA firms specializing in IPR law, including the firm that represents the Business Software Alliance (BSA). After several months of planning, the subcommittee succeeded in organizing two IPR events that took place on August 23 and September 21 in Johannesburg. Both events aimed to sensitize South African government officials about the importance of IPR and the need for more effective enforcement. The South African government cooperated by providing speakers for the first event and nearly a hundred prosecutors from the Gauteng province for the second event. Both events advanced U.S. policy to promote the protection of intellectual property rights, an important goal of the African Growth and Opportunity Act (AGOA).

Workshop on the Enforcement of Intellectual Property Rights  
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3. The U.S. Patent and Trademark Office (USPTO), IPACT and the U.S. Embassy organized the Workshop on Enforcement of Intellectual Property Rights on August 23 in Johannesburg. The USPTO funded the event (Reftel C). Over sixty South African government officials participated, including representatives of the Department of Trade and Industry (DTI), DTI's Companies and Intellectual Property Registration Office (CIPRO), the Department of Health, the South African Police Service (SAPS), the South African Revenue Service (SARS), the Department of Foreign Affairs (DFA) and the Registrar of Trade Marks and Patents. Managers from leading U.S. pharmaceutical companies also attended and discussed solutions to their problems with SAG officials. The media also covered the event.

4. Welcoming the South African participants, U.S. Consul General discussed the importance of IPR to virtually all modern economic activity. The Chairman of IPACT recommended that the workshop become an annual feature. He discussed the relationship between "creativity" and IPR, saying:

"Creative genius in music and movies can entertain. Creative genius in medicine can heal and save lives. Although it has been argued, unsuccessfully I might add, that counterfeit products facilitate the free flow of information, they in fact merely feed off someone else's creativity. It is not a victimless crime when unscrupulous operators want to turn a profit on someone else's intellectual property. The combined economic loss for the South African economy is huge. Intellectual Property theft is sometimes perceived as being a problem that only affects the bottom line of huge companies. Last week I had a meeting with the South African Trade Union of Musicians called MUSA. I can assure you that individual musicians in the rural areas of our country are as concerned about the effect that piracy has on their livelihood as any of the affected multi-national companies."

5. USPTO Attorney Advisor Michael Adlin delivered well-received presentations on counterfeit medicines and

effective enforcement tools against optical disc and digital piracy. A representative of the SA Department of Health discussed enforcement using the Medicines Control Act. A Department of Trade and Industry (DTI) official discussed optical disc and digital piracy. (Note: She will attend the USPTO Enforcement Academy program in October 2004.) The Chairman of the Business Software Alliance (BSA) discussed software piracy issues. The group marketing director of Johnnic Communications spoke on the importance of IPR enforcement for the film industry. The Superintendent of the Computer Unit of the South African Police Force discussed investigative techniques along with two representatives of the South African Revenue Service.

#### Seminar for Prosecutors

16. On September 21 IPACT hosted a seminar for South African prosecutors. IPACT invited nearly 100 prosecutors and nearly all of them attended the one-day event held at Microsoft's new offices. Private sector attorneys specializing in IPR law focused on South Africa's Counterfeit Goods Act, discussed copyright and trademark enforcement issues, and described the economic harm of pirated goods. There were also sections on expert evidence preparation, criminal case examples, and case study workshops. IPACT described the event as a public private partnership.

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